

No. 9/87-6Lab./9083.—In pursuance of the Provision of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the Workman and the management of (i) State Transport Controller, Chandigarh, (ii) General Manager, Haryana Roadways Ambala City.

BEFORE SHRI K. K. DODA, PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 9 of 1986

between

SHRI HORI LAL, WORKMAN AND THE RESPONDENT MANAGEMENT OF STATE TRANSPORT CONTROLLER, CHANDIGARH;

(ii) GENERAL MANAGER, HARYANA ROADWAYS, AMBALA CITY

AWARD

In exercise of the powers conferred by clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, the Hon'ble Governor of Haryana referred the following dispute between Shri Hori Lal, workman and the respondent management of State Transport Controller, Haryana, Chandigarh; (ii) General Manager, Haryana Roadways, Ambala City to this Court for adjudication :—

Whether the termination of services of Shri Hori Lal is justified and in order ? If not to what relief is he entitled ?

2. Workman Shri Hori Lal's case in brief is that he was appointed as helper on daily wages on 31st January, 1984 by the General Manager, Haryana Roadways, Ambala City. He continued performing his duty till 23rd February 1985 to the satisfaction of his officer incharge. When he reported for duty on 24th February, 1985, he was told by the then Works Manager that his services were not required as per orders of the General Manager. He termed his termination as illegal and against the provisions of Industrial Disputes Act, 1947. He gave the list of several other persons who were taken on job after his termination.

3. Respondent-management pleaded that, in fact workman Hori Lal absented from duty with effect from 24th February, 1985. Laid stress that the workman had voluntarily retired from service by absenting 24th February, 1985 onwards.

4. In his replication workman repelled the contentions of the respondent and stressed that he had not absented from duty from 24th February, 1985 but was terminated and was not taken on job.

5. Following issues were laid down on 17th February, 1986 by my learned predecessor for decision:

- (i) Whether termination of services of the workman is unjustified and in correct and if so its effect ? (OPW)
- (ii) Relief ?

6. Workman Hori Lal appeared in evidence on 6th May, 1987 and placed reliance upon photo copy Ex. A/5 of the application which he had sent to the General Manager, Haryana Roadways and copy Ex. A/1 of the appeal made by him before the State Transport Controller, Haryana, Chandigarh. He examined Shri Amir Chand, Assistant, Haryana Roadways, Ambala on 21st August, 1987. Management examined Shri Vidya Sagar, Dealing Clerk Haryana Roadways, Ambala City and Shri Richpal Singh, Works Manager. Reliance has been placed upon copy Exhibit M-1 of the application dated 17th November, 1984 whereby Hori Lal applied for job and copies Exhibits Ex. M-2 to M-14 of the orders,—*vide* which the workman and several others were being appointed from time to time on monthly wages for a duration of one month. Case had come up before me for the first time on 28th July, 1987.

7. Shri R.K. Singh, represented the workman and Vijay Singh, A.D.A. represented the respondent management.

8. I have gone through the entire material on record and with requisite anxiety and also heard the learned representatives of both the parties. My findings on the issues with the reasons are as under :—

Issue No. 1 :

9. It is now not disputed and also stands proved from the oral and documentary evidence on record that Hori Lal continued serving the respondent management from 31st January, 1984 to 23rd February

1985. It means that he had completed more than 240 days service preceding the day of his termination. It is also an admitted fact that the workman was not served with any show cause notice or retrenchment nor was paid any retrenchment compensation. The only plea of the respondent management that the workman had himself retired from service by absenting from duty from 24th February, 1985 onwards. The workman Hori Lal has testified that he did not remain absent but reported for duty on 24th February, 1985 and that he was not allowed to join duty. Shri Amir Chand, Assistant, Haryana Roadways, Ambala City, admitted in his cross examination that no show cause notice or recall notice was given to the workman after the day he allegedly absented from duty. Shri Amir Chand and MW-1 Shri Vidya Sagar have admitted that other persons were appointed in place of the workman. MW-2 Shri Richpal Singh, Works Manager admitted that he had not reported to the General Manager against the workman regarding his absence from his duty. It clearly follows from the above evidence on record that requisite and proper procedure was not adopted or followed by the respondent-management. It was necessary for the respondent to issue recall notice or show cause notice to the workman before treating him absent from duty. It is a clear case of illegal termination and retrenchment of the workman Hori Lal.

10. In the result Issue No. I is decided in favour of the workman and against the respondent management.

Relief :

11. As a consequence of above discussion and definite findings on Issue No. I It is held that the termination of workman was illegal and un-justified. He is held entitled for reinstatement with continuity of service and full back wages.

Reference is answered accordingly.

Dated : 6th October, 1987

K. K. DODA,

Presiding Officer,
Labour Court, Ambala.

Endorsement No. 2381, dated 19th October, 1987

Forwarded (four copies) to the Commissioner and Secretary to Government Haryana, Labour and Employment Department, Chandigarh as required under section 15 of Industrial Disputes Act.

K. K. DODA,

Presiding Officer,
Labour Court, Ambala.

No. 9/1/87-6Lab./9084.—In pursuance of the provision of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the management of M/s Optilab Engineers, Jagadhri Road, Ambala Cantt.

BEFORE SHRI K.K. DODA, PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 232 of 1986

between

**SHRI SUSHEEL KUMAR, WORKMAN AND THE RESPONDENT MANAGEMENT OF
M/S. OPTILAB ENGINEERS, JAGADHRI ROAD, AMBALA CANTT.**

AWARD

In exercise of the powers conferred by clause (c) of sub section (1) of Section 10 of the Industrial Disputes Act, 1947, the Hon'ble Governor of Haryana referred the following dispute between Shri Susheel, workman and the respondent-management of M/s. Optilab Engineers, Jagadhri Road, Ambala Cantt. to this Court, for adjudication :—

Whether the termination of services of Shri Susheel Kumar is justified and in order? If not, to what relief is he entitled ?

2. Workman's case stated in his demand notice dated 18th July, 1986 in brief is that he served with the respondent-management on a permanent job for the last 2 years but was ousted from the factory on 14th May 1986 illegally and without any justification. He has been victimised for having joined union namely Scientific

Karam Chari Union (Registered). He contended that compliance of Section 25-F and 25-B of the Industrial Disputes Act, 1947 was not made before his termination. Management denied relationship of employer and employee between him and the workman. Asserted that the petitioner Susheel Kumar never worked under him nor was ever employed. Petitioner is rather un-known to the management. Allegations of victimisation are also false.

3. Workman filed replication re-asserting his contentions.
4. Following issues were laid down on 10th March, 1987 by my learned predecessor :—
 - (i) Whether the termination of workman is un-justified and in correct ? If so, its effect ?
 - (ii) Relief ?

5. Workman failed to produce any evidence. As many as three opportunities were granted to the workman to produce his evidence. Interim orders speak that the workman never appeared in person for his evidence. Today, neither the workman was present nor any of his witness. W.R. Shri I.S. Bansal could not give any valid or good ground for further adjournment. There, being no valid ground for further adjournment, workman's evidence was closed by order.

6. Management's representative closed evidence without producing any evidence. Material on record gone through and opportunity of hearing was given to both the parties.

7. Since the workman has failed to produce any evidence on issue No. 1 burdened upon him, therefore the same is decided against him.

8. There is no material on record on the basis of which it could be held that there was any relationship of employee and employer between Shri Susheel Kumar and M/s. Optilab Engineers, Jagadhri Road, Ambala Cantt. There is no material on record on the basis of which it could be gathered that the petitioner Shri Susheel Kumar had ever worked with the respondent-management or that he was terminated.

Relief.

9. Since the petitioner has not been able to prove himself as a workman under the management, therefore, it is held that there was no relationship of employer and employee between the management and the petitioner. Thus, petitioner is not entitled to any relief.

Reference is answered accordingly. Other formalities be also complied with.

Dated 14th October, 1987.

K. K. DODA,
Presiding Officer,
Labour Court, Ambala.

Endorsement No. 2382, dated 19th October, 1987.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh as required under section 15 of Industrial Disputes Act.

K. K. DODA,
Presiding Officer,
Labour Court, Ambala.

No. 9/1/87-6 Lab./9085.—In pursuance of the provision of section 17 of the Industrial Disputes Act 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of presiding Officer Labour Court, Ambala in respect of the dispute between the Workman and the management of M/s. The Laboratory Equipment Traders Arya Nagar, Jagadhri Road, Ambala Cantt.

BEFORE SHRI K.K. DODA, PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 237 of 1986

Between

**SHRI RAMESH KUMAR, WORKMAN AND THE RESPONDENT MANAGEMENT OF M/S.
THE LABORATORY EQUIPMENT TRADERS, ARYA NAGAR, JAGADHRI ROAD,
AMBALA CANTT**

AWARD

In exercise of the powers conferred by clause (c) of Sub-Section (1) of section 10 of the Industrial Dispute Act, 1947, the Hon'ble Governor of Haryana referred the following dispute between Workman Shri Ramesh Kumar, and the respondent-management of M/s. The Laboratory Equipment Traders, Arya Nagar, Jagadhri Road, Ambala Cantt, to this Court, for adjudication :—

Whether the termination of services of Shri Ramesh Kumar is justified and in order ? If not to what relief is he entitled ?

2. Workman's case stated in his Demand Notice dated 4th July, 1986, in brief is that he served with the respondent-management on a permanent job at least for 2½ years but was ousted from the factory on 10th June, 1986 illegally and without any justification. He had been victimised for having joined union namely Scientific Karamchari Union (Registered). He contended that compliance of Section 25-F and 25-B of the Industrial Disputes Act, 1947 was not made before his termination. Management denied relationship of employer and employee between him and the workman. Asserted that the petitioner Ramesh Kumar never worked under him nor was ever employed. Petitioner is rather un-known to the management. Allegations of victimisation are also false.

3. Workman filed replication reasserting his contentions.

4. Following issues were laid down on 11th March, 1987 by my learned predecessor :—

(i) Whether the termination of workman is unjustified and incorrect ? If so, its effect ?

(ii) Relief ?

5. Workman failed to produce any evidence. As many as three opportunities were granted to the workman to produce his evidence. Interim orders speak that the workman never appeared in person or his evidence. Today, neither the workman was present nor any of his witness. W.R., Shri I.S. Bansal could not give any valid or good ground for further adjournment. There being no valid ground for further adjournment, workman's evidence was closed by order.

6. Management's representative closed evidence without producing any evidence. Material on record gone through and opportunity of hearing was given to both the parties.

7. Since the workman has failed to produce any evidence on Issue No. I burdened upon him, therefore, the same is decided against him.

8. There is no material on record on the basis of which it could be held that there was any relationship of employee and employer between Shri Ramesh Kumar and M/s. The Laboratory Equipment Traders, Ambala Cantt. There is no material on record on the basis of which it could be gathered that the petitioner Ramesh Kumar had ever worked with the respondent-management or that he was terminated.

Relief :

9. Since the petitioner has not been able to prove himself as a workman under the management, therefore, it is held that there was no relationship of employer and employee between the management and the petitioner. Thus, petitioner is not entitled to any relief.

Reference is answered accordingly. Other formalities be also complied with.

Dated, 14th October, 1987.

K. K. DODA,
Presiding Officer,
Labour Court, Ambala.

Endorsement No. 2383, dated 19th October, 1987.

Forwarded (four copies) to the Commissioner and Secretary to Government Haryana, Labour and Employment Department, Chandigarh as required under Section 15 of Industrial Disputes Act.

K. K. DODA,
Presiding Officer,
Labour Court, Ambala.